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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/751,801	12/29/2000	Scott D. Leapman	1957	5937

30408 7590 07/29/2004

GATEWAY, INC.

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EXAMINER

LASTRA, DANIEL

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/751,801	LEAPMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	DANIEL LASTRA	3622	<i>UW</i>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

THE MAILING DATE OF THIS COMMUNICATION IS 01/10/2023.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 26 April 2004.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-37 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-37 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All   b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_ .

## **DETAILED ACTION**

1. Claims 1-37 have been examined. Application 09/751,801 (SYSTEM AND METHOD FOR TARGETED ADVERTISING) has a filing date 12/29/2000.

### ***Response to Amendment***

2. In response to Office Action dated 01/26/04, the Applicant amended claim 10.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 recites the limitation "a user of the communication". There is insufficient antecedent basis for this limitation in the claim. The word "device" needs to be inserted after "communication" to overcome the Section 112 rejection.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7, 8, 10-16, 18-22 and 24-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Dowling et al (U.S. 6,522,875).

As per claim 1, Dowling teaches:

A method for broadcast advertising to a mobile communication device, comprising the steps of:

storing acceptance data in the communication device (see column 9, line 40 – column 10, line 40);

receiving by the communication device a broadcast advertisement containing advertisement data and comparing the advertisement data to the acceptance data to obtain a comparison result (see column 9, line 40 – column 10, line 40).

As per claim 2, Dowling teaches:

The method of claim 1, wherein the broadcast advertisement is received by the communication device through a wireless communication channel (see column 8, lines 25-45).

As per claim 3, Dowling teaches:

The method of claim 2, wherein the broadcast advertisement is received by the communication device through one of: a radio transmission, a television transmission, a Bluetooth signal, and an infrared signal (see column 8, lines 25-35).

As per claim 4, Dowling teaches:

The method of claim 1, wherein the broadcast advertisement is received by the communication device from one of a billboard and a storefront (see column 10, lines 10-40; column 12, lines 60-67).

As per claim 5, Dowling teaches:

The method of claim 1, wherein the acceptance data comprises preferences for accepting broadcast advertisements specified by a user of the communication device (see column 9, line 40 – column 10, line 39).

As per claim 7, Dowling teaches:

The method of claim 1, further comprising the step of displaying the broadcast advertisement on the communication device based on the comparison result (see column 9, line 40 – column 10, line 40).

As per claim 8, Dowling teaches:

The method of claim 1, further comprising the step of storing the broadcast advertisement on the communication device based on the comparison result (see column 10, lines 10-40; column 12, lines 24-31).

As per claim 10, Dowling teaches:

The method of claim 1, further comprising the step of outputting a notification signal to a user of the communication *if comparison of the advertisement data to the acceptance data is accepted* (see column 11, lines 25-54).

As per claim 11, Dowling teaches:

The method of claim 1, further comprising the step of sending an indicator signal to a source of the broadcast advertisement, wherein the indicator signal notifies the source that the communication device is within a broadcast range of the broadcast advertisement (see column 11, lines 25-40).

As per claim 12, Dowling teaches:

The method of claim 1, further comprising the step of communicating through the communication device with a wireless positioning system (see column 11, lines 25-40).

As per claim 13, Dowling teaches:

The method of claim 12, wherein the wireless positioning system is GPS (see column 11, lines 25-40).

Claim 14 contains the same limitations as claims 1 and 5 therefore the same rejection is applied.

Claim 15 contains the same limitation as claim 11 therefore the same rejection is applied.

Claim 16 contains the same limitation as claim 2 therefore the same rejection is applied.

Claim 18 contains the same limitation as claim 7 therefore the same rejection is applied.

Claim 19 contains the same limitation as claim 1 therefore the same rejection is applied.

Claim 20 contains the same limitation as claim 2 therefore the same rejection is applied.

Claim 21 contains the same limitation as claim 3 therefore the same rejection is applied.

Claim 22 contains the same limitation as claim 5 therefore the same rejection is applied.

Claim 24 contains the same limitation as claims 1 and 7 therefore the same rejection is applied.

Claim 25 contains the same limitation as claim 8 therefore the same rejection is applied.

Claim 26 contains the same limitation as claim 12 therefore the same rejection is applied.

Claim 27 contains the same limitation as claim 13 therefore the same rejection is applied.

Claim 28 contains the same limitation as claim 1 therefore the same rejection is applied.

Claim 29 contains the same limitation as claim 11 therefore the same rejection is applied.

Claim 30 contains the same limitation as claim 2 therefore the same rejection is applied.

Claim 31 contains the same limitation as claim 5 therefore the same rejection is applied.

Claim 32 contains the same limitation as claim 2 therefore the same rejection is applied.

Claim 33 contains the same limitation as claims 1, 5 and 7 therefore the same rejection is applied.

Claim 34 contains the same limitation as claim 11 therefore the same rejection is applied.

Claim 35 contains the same limitation as claim 2 therefore the same rejection is applied.

Claim 36 contains the same limitation as claim 5 therefore the same rejection is applied.

Claim 37 contains the same limitation as claim 12 therefore the same rejection is applied.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 9, 17 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dowling et al (U.S. 6,522,875) in view of Huang et al (U.S. 6,571,245).

As per claim 6, Dowling teaches the method of claim 1, but fails to teach further comprising the step of modifying the acceptance data by integrating entries from a personal information manager. Huang teaches a web page personal information manager which interface with personal digital assistance computers (see figure 10; column 13, lines 15-39). Therefore, it would have been obvious to a person ordinary skill in the art at the time the application was made, to know that users of the Dowling system would use a personal information manager to input data, as taught by Huang, which would interface with the personal digital assistance taught by Dowling (see

column 7, lines 23-26). The personal information manager would give users a more friendly display to input data and manage files.

As per claim 9, Dowling teaches the method of claim 8, but fails to teach further comprising the steps of: reading deletion data in a stored advertisement, wherein the deletion data indicates criteria for deleting the stored advertisement; and deleting the stored advertisement from the communication device based on the deletion data. Huang teaches a web page personal information manager which interface with personal digital assistance computers and which allows to save and delete files in a similar manner as a desktop computer (see figure 10; column 8, lines 63-67; column 13, lines 15-39). Therefore, it would have been obvious to a person ordinary skill in the art at the time the application was made, to know that users of the Dowling system would use a personal information manager to input data and delete files, as taught by Huang, which would interface with the personal digital assistance taught by Dowling (see column 7, lines 23-26). The personal information manager would give users a more friendly display to input data and manage files.

Claim 17 contains the same limitation as claim 6 therefore the same rejection is applied.

Claim 23 contains the same limitation as claim 6 therefore the same rejection is applied.

#### ***Response to Arguments***

6. Applicant's arguments, filed 04/26/04, with respect to the rejection(s) of claim(s) 1-37 under Treyz have been fully considered and are persuasive. Therefore, the

rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Dowling et al (U.S. 6,522,875).

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

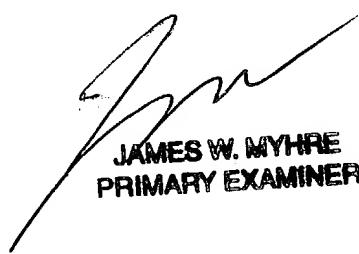
- Rautila teaches a system for connecting a mobile terminal to a database.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 703-306-5933. The examiner can normally be reached on 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ERIC W STAMBER can be reached on 703-305-8469. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D L  
Daniel Lastra  
June 12, 2004

  
JAMES W. MYHRE  
PRIMARY EXAMINER